

Application No.: 10/067,620

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Docket No.: 416272003400

REMARKS

Claims 1-16 are pending. Claim 1 has been amended by replacing "has" with "comprises", a typographical error. Support for the amendment can be found throughout the specification, for example, at paragraphs [0007]-[0019]. Claims 1-16 remain pending in the present application.

Applicants hereby provisionally elect Group I, claims 1-3 and 8-12, for continued examination, with traverse. Reconsideration is respectfully requested.

The Examiner has required restriction between Group I, claims 1-3 and 8-12, and Group II, claims 4-7 and 13-16. Applicants provisionally elect Group I, with traverse, and submit that the asserted basis for restriction are insufficient. Applicants thus respectfully request the restriction be reconsidered or withdrawn for the following reasons.

The Examiner recognized that Group I and Group II are related as product and process of use. Applicants agree. The Examiner has required restriction between Group I and Group II based on a determination that the groups are distinct because "the product as claimed can be used in a materially different process". More specifically, Group I compositions "can be used in immunization protocols to raise antibodies in mice."

Applicants respectfully assert that the Examiner has not demonstrated that it would be an undue burden to search all of the claims of the present application. Applicants note that the definition of class 424 as provided in the Manual of Classification includes processes of using compositions that are the subject matter of the class (see Statement of Class Subject Matter, subsection E). Because the claims of Group II, 4-7 and 13-16, are directed to the use of Group I compositions, claims 1-3 and 8-12, Group II may be properly classified along with Group I in class 424, subclass 275.1. With this classification, no search burden is present because the search of Group I would be identical to the search of Group II. Applicants thus respectfully submit that because no serious burden of search is present in searching a single subclass (see MPEP 803), the reasons for restriction between these Groups are insufficient and the restriction may be properly withdrawn.

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In the event that the instant restriction requirement is maintained despite the above discussion, Applicants hereby elect Group I, claims 1-3 and 8-12, with traverse. Applicants respectfully request that upon the finding of allowability of Group I, the claims of Group II be rejoined as set forth at MPEP 821.04. Applicants expressly reserve the right under 35 U.S.C. § 121 to file a divisional application directed to the nonelected subject matter.

Applicants request examination of the elected subject matter on the merits.

Amendment and/or cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented, and Applicant reserves the right to prosecute the subject matter of such claims in continuation and/or divisional applications.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing 416272003400. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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